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Joseph Weathered

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S) : Dmitry A. Raykhman

SERIAL NO. : 09/415,392

FILED : 10/08/1999

FOR : Real-Time Commodity Trading Method and Apparatus

GROUP ART UNIT : 4774

EXAMINER : James S. McClellan

Mail Stop Appeal Brief - Patents
Commissioner for Patents
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REPLY BRIEF

With respect to claim 1, the Examiner states: "Wagner discloses the use of a clearing system (38) for constantly checking so that the limitations cannot be violated. It is the Examiner's position that the clearing system (38) would inherently check to make sure that a monetary amount necessary to complete the total cost of the transaction (total quantity multiplied by the per unit cost) would be determined in order for the trade to be completed."

Appellant wishes to point out two fatal errors in the Examiner's reasoning that are apparent from this excerpt. First, the Examiner imputes inherency to the Wagner reference

but has not support for that assertion of inherency. Second, even if the inherency described by the Examiner were valid, it does not go to the subject matter of claim 1. The Examiner maintains that Wagner inherently check to make sure that a monetary amount necessary to complete the ***total cost*** of the transaction. The "total stop amount" of claim 1, however, is not the total amount required for completing a trade on a matching bid and offer. Instead, the "total stop amount" is the amount required to cover a stop execution.

The Examiner's misinterpretation of the term "total stop amount" in claim 1 carries through to dependent claims 4, 6, and 10.

With respect to claim 7, the Examiner states that "it's the trader's computer that is responsible for signaling actions taken by the clearing house. Therefore, the client or trading computer perform an action that indirectly makes the comparison between the total stop amount and the available amount. While the clearing house is directly responsible for making the comparison, the client or trading computer performs actions that are necessary for the comparison to occur."

The performing of a first action on one computer that may result in a second action on another computer is not the same as the one computer performing, and having total control over, the second action. What applicant is claiming in claim 7 is ***not the same as or obvious from*** what is disclosed by Wagner.

With respect to claim 11, the Examiner states "the stop value is the cost of the transaction." But that is not the case by the explicit terms of claim 1. The Examiner is again defining a claim term in clear contravention of the definition explicitly stated in the claims.

With respect to claim 22, the Examiner admits that Silverman appears to upload potential offers before the credit limit is checked; however the Examiner argues that an offer is not ***valid*** until the proper funds are verified. Therefore, the Examiner concludes that Silverman's system of verifying that necessary funds are available precedes the submission of a ***valid*** offer to buy or sell.

Appellant contravenes the Examiner's arguments here, again because the Examiner is redefining claim language to mean something other than what is expressly claimed. The Examiner is

defining "offer" to be a "valid offer." Appellant means any offer at all. No offer is transmitted by a computer at all unless and until an automatic determination is made that sufficient capital exists in a given account of a trader utilizing the computer, to cover a trade executable on the trading offer for the total number of currency units.

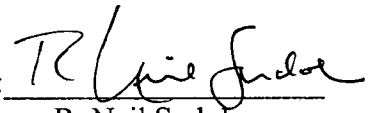
With respect to claim 55, the Examiner again imputes an action done by a first computer to a second computer, whereas it is not taught by or obvious from the reference (Silverman) that the second computer could perform the action. The Examiner is reading appellant's invention into the prior art.

In summary, the Examiner's position is rife with erroneous definitions of Appellant's claim terms and imputation of processes on one computer to another computer, without any motivation in the references.

Respectfully submitted,

COLEMAN SUDOL SAPONE, P.C.

Dated: November 22, 2004

By: 

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